

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA)
)
 v.) Criminal Action No. 01-150-A
)
JAY E. LENTZ,)
)
 Defendant.)

O R D E R

This matter is before the Court on Defendant's Motion for Production of List of All Witnesses the Government Intends to Call, Motion to Suppress, Motion for Disclosure of Rule 404(b) Evidence, and Motion for Discovery and Exculpatory Evidence.

For the reasons stated in open court on June 22, 2001, it is hereby **ORDERED** that:

1. The Government shall disclose to Defendant and make available for inspection, copying or photographing; any relevant written or recorded statements made by Defendant, or copies thereof, or by the exercise of due diligence may become known, to the attorney for the Government; that portion of any written record containing the substance of any relevant oral statement by Defendant, whether before or after arrest, in response to interrogation by any person then known to Defendant to be a government agent; recorded testimony of Defendant before a grand jury which relates to the offense charged; and the substance of any other relevant oral statement made by Defendant, whether before or after arrest, in response to interrogation by any

person then known by Defendant to be a government agent if the government intends to use that statement at trial.

2. The Government shall furnish to Defendant such copy of his prior criminal record, if any, as is within the possession, custody, or control of the Government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the Government.

3. The Government shall permit Defendant to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the Government, and which are material to the preparation to Defendant's defense or are intended for use by the Government as evidence in chief at the trial, or were obtained from or belong to Defendant.

4. The Government shall permit Defendant to inspect and copy or photograph and results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the Government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the Government, and which are material to the preparation of the defense or are intended for use by the Government as evidence in chief at trial.

5. The Government shall disclose to Defendant a written summary of testimony that the Government intends to use under Rules 702, 703, or 705, Federal Rules of Evidence, during its case in chief at trial. This summary shall describe the witnesses' opinion, the bases and reasons therefor, and the witnesses' qualifications.

It is further **ORDERED** pursuant to Fed. R. Crim. P. 16(b) that, upon Government compliance with the foregoing:

6. Defendant shall permit the Government to inspect and copy or photograph books, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody or control of Defendant and which Defendant intends to introduce as evidence in chief at trial.

7. Defendant shall permit the Government to inspect and copy or photograph any results or reports of physical or mental examination and of scientific test or experiments made in connection with the particular case, or copies thereof, within the possession or control of Defendant, which Defendant intends to introduce as evidence in chief at trial or which were prepared by a witness whom Defendant intends to call at the trial when the results or reports relate to his testimony.

8. Defendant shall disclose to the Government a written summary of testimony Defendant intends to use under Rules 702, 703, and 705, Federal Rules of Evidence, as evidence at trial.

This summary shall describe the witnesses' opinions, the bases and reasons therefor, and the witnesses' qualifications.

It is further ORDERED that if, prior to going to trial, a party discovers additional evidence or material which is subject to discovery or inspection under this ORDER, that party shall promptly notify the other party or his attorney or the Court of the existence of the additional evidence or material.

It is further ORDERED that the Government shall provide notice to Defendant, in accordance with Fed. R. Evid. 404(b) of the general nature of any evidence of other crimes, wrongs, or acts of Defendant which it intends to introduce at trial, except that, upon motion of the Government and for good cause shown, the Court may excuse such pretrial notice.

It is further ORDERED that the Government shall comply with its obligations to produce any known exculpatory material as required by Brady v. Maryland, 373 U.S. 83 (1963) and United States v. Agurs, 427 U.S. 97 (1976).

It is further ORDERED that the Government shall produce to Defendant the Jencks Act and Giglio materials for the witnesses who will testify in the Government's case in chief. Counsel for Defendant may disclose the contents of said Jencks Act and Giglio materials to his client, but may not provide his client with said documents or reproductions thereof. All Jencks Act and Giglio materials and reproductions thereof shall be returned to the

United States Attorney's Office forthwith at the conclusion of the trial in the above-styled case.

It is further **ORDERED** pursuant to Fed. R. Crim. P. 26.2 that Defendant, and through his counsel, shall produce to the Government the statement of any witnesses, other than Defendant, who will testify on behalf of Defendant.

It is further **ORDERED** that the following deadlines shall apply to the parties' disclosure and production of the items referred to herein:

a. The Government shall provide discovery and inspection of all Rule 16(a) material immediately;

b. The Government shall produce to Defendant the Government's list of non-expert witnesses by 5 p.m. 30 calendar days prior to trial. The Government shall identify the witnesses by name, address, and telephone number. Only counsel for Defendant shall receive the addresses and telephone numbers of the witnesses, and Defendant shall only have access to the witnesses' names;

c. The Government shall produce to Defendant the Government's list of expert witnesses, those witnesses' opinions, and the bases for those opinions by 5 p.m. 45 calendar days prior to trial;

d. The Government shall provide notice of the Rule 404(b) evidence by 5 p.m. 45 calendar days prior to trial;

e. The Government shall produce all Brady, Agurs, Jencks Act, and Giglio materials immediately;

f. Defendant shall produce its witness statements to the Government by 5 p.m. ten calendar days prior to trial.

It is further **ORDERED** that Court-appointed counsel for Defendant shall make any request for additional resources for use in the preparation of this case by 5 p.m. Monday, June 25, 2001.

The Clerk is directed to forward a copy of this Order to counsel of record. This Order is placed under seal.

Entered this 22nd day of June, 2001.

/S/

Gerald Bruce Lee
United States District Judge

Alexandria, Virginia
06/22/01